

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)
)
)
This Document Relates to:) MDL No. 1:13-md-2419-FDS
)
<i>Bland, et al. v. Ameridose, LLC, et al.</i>)
1:13-cv-11881-FDS)

PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION TO AMEND COMPLAINT

Plaintiffs filed their Complaint in the Middle District of Tennessee on July 17, 2013, and amended the Complaint in that court on July 25, 2013. A Conditional Transfer Order entered August 1, 2013, directed transfer of the action to this Court. This case was transferred to this Court on August 7, 2013. Plaintiffs' proposed Second Amended Complaint adds an additional set of Defendants (Saint Thomas West Hospital, Saint Thomas Network, and Saint Thomas Health) that were not included in the original complaint because Plaintiffs had not yet sent the added defendants a Notice of Claim letter as required by Tenn. Code Ann. § 29-26-121. Additionally, Plaintiffs' Second Amended Complaint contains additional allegations against the remaining defendants that were not included in the original complaint but that comport with similar allegations now made on behalf of other Tennessee Plaintiffs in the meningitis litigation.

As the language of Rule 15(a)(2), Fed. R. Civ. Pro., makes clear, "[t]he court should freely give leave [to amend] when justice so requires." *Accord, e.g., One Beacon Ins. Co. v. Electrolux*, 223 F.R.D. 21, 24–25 (D. Mass. 2004); *McMillan v. Mass. Soc'y for Prevention of Cruelty to Animals*, 168 F.R.D. 94, 97–98 (D. Mass. 1995). No defendant has as yet answered and therefore no party can show any unfair or undue prejudice. Plaintiffs' Motion does not require deviation from any scheduling order.

For the reasons outlined above, Plaintiff moves this Court for an Order granting Plaintiff leave to file and serve the attached Second Amended Complaint.

Respectfully submitted,

LEADER, BULSO & NOLAN, PLC

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and a paper copy will be sent by U.S. Mail to those indicated as non-registered participants including

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Thomas Network and Saint Thomas Health
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on this 2nd day of October 2013.

/s/ William D. Leader, Jr.

William D. Leader, Jr.